IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1009 of 2005

Between:

P.Babji, S/o Bangaraiah,
R/o 4-1-122, Lambadipet, Vijayawada-9.

..... PETITIONER

AND

1 The Assistant Commissioner, Endowments Department,
Krishna District, Vijayawada.
2 The Executive Officer, Sri Durga Malleswara Swamy Varla
Devasthanam, Indra Keeladri, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more especially one in the nature of writ of mandamus or any other appropriate direction, declaring the action of the respondents in not disposing of the application filed by the petitioner dated 15-3-2004 and contemplating to evict the petitioner from cultivating the dry land admeasuring Ac.5.00 of 2nd respondents in RS No.106/2 of Vidyadharapuram, Vijayawada Urban, as illegal, arbitrary, and capricious, and consequentially direct the respondents not to evict the petitioner from the land admeasuring Ac.5.00 of dry land in RS No.106/2 situated at Vidhyadharapuram, Vijayawada Urban that belongs to the 2nd respondent.

Counsel for the Petitioner: MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondent No.1: G.P. FOR ENDOWMENTS

Counsel for the Respondent No.2: SMT.N.INDRANI

The Court at the stage of admission made the following ORDER:

The petitioner claims that he has been cultivating Ac.5.00 of dry land in Survey No.106/2 of Vidyadharapuram, Vijayawada belonging to Sri Durga Malleswara Swamyvarla Devasthanams, Vijayawada, since last 40 years. He claims to have submitted an application dated 15.03.2004 before the first respondent seeking a declaration that he is a landless poor person, as defined under explanation to Section 82 of the A.P. Charitable & Hindu Religious Institutions & Endowments Act,1987 (for short 'the Act'). The petitioner contends that even while the application for determination of his status as landless poor person is pending, the respondents are taking steps to evict him.

Heard the learned counsel for the petitioner, the learned Government Pleader for Endowments and the learned standing counsel for the second respondent.

The leases in respect of the agricultural lands owned by the temples stand terminated by operation of Section 82 of the Act. It provided certain relief in favour of the persons who are declared as small farmers. Option is given to them to purchase the land at three-fourth of the market value, in case the temple intends to sell the same. The Government framed Rules for the purpose of determination of the status of the farmers as well as other matters in relation to the resumption of lands on termination of tenancies. The first respondent is conferred with the power to determine the status of the tenant as a landless poor. The second respondent has to take into account, the land held by the petitioner as lessee or owner and his income. Having regard to the fact that the property is valuable, the second respondent is required to take steps without any further delay. The petitioner is said to be paying rent at the rate of Rs.10,000/- per year. It was fixed long back.

For the foregoing reasons, the writ petition is disposed of directing the first respondent to pass appropriate orders on the application said to have been filed by the petitioner, under explanation to Section 82 of the Act, within a period of four weeks from today, duly taking into account, the land held by the petitioner as tenant or owner and his income. The question as to whether the petitioner shall be evicted from the land or not, shall depend on the outcome of the same. Till the first respondent passes an order, as directed above, the petitioner shall be continued as lessee purely on tentative basis on payment of lease amount at the rate of Rs.5,000/- per acre per annum.

It is made clear that even if the petitioner is declared as a landless poor person, his right to purchase the land would depend on the willingness of the second respondent to sell the same. In case the second respondent does not intend to sell the land and the petitioner is declared as the landless poor person, he shall be granted a fresh lease, fixing the lease amount at three-fourth of what is fetched in the auction conducted for that purpose. There shall be no order as to costs.

08.02.2005

Note:

Issue CC in three days.

(BO)

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To

1 The Assistant Commissioner, Endowments Department,
Krishna District, Vijayawada.
2 The Executive Officer, Sri Durga Malleswara Swamy Varla
Devasthanam, Indra Keeladri, Vijayawada.

3 Two CCs to G.P for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)

4 Two CD Copies